

CHAPTER 75.

OF MUNICIPAL COURTS.

H. F. 171.

AN ACT to amend the law as it appears in section six hundred ninety-four c-eight (694-c8); six hundred ninety-four c-seventeen (694-c17); six hundred ninety-four c-twenty-two (694-c22); six hundred ninety-four c-forty-three (694-c43); six hundred ninety-four c-forty-five (694-c45) and six hundred ninety-four c-forty-six (694-c46) of the supplemental supplement to the code, 1915, and section three thousand eight hundred eighty-five (3885) of the code, and by adding to chapter three (3) of title five (V) of the supplemental supplement to the code, 1915, section six hundred ninety-four c-fifty-two (694-c52) and section six hundred ninety-four c-fifty-three (694-c53), relating to the manner of commencing actions in the municipal court, providing notice to be served upon defendant in such actions, specifying the time and manner of service and providing for the return thereof; fixing the time judgment may be taken, relating to challenges for cause and peremptory challenges to jurors, providing for procedure on appeals from the municipal court, and providing for procedure on appeals from municipal court where such judgment has been transcribed to the district court of any county, specifying the manner of staying executions on such judgment, providing for service of original notice by publication and the cases in which such service may be made, and relating to the manner of publishing notice, and proof of service thereof, providing procedure for setting aside defaults or judgments entered, and the time and manner in which application therefor must be made, and relating to proceedings brought to vacate, modify or reverse judgments, and to provide for the filing of bond in such court in actions of attachment, providing for the time and manner of giving notice in execution sales in such court, the keeping of the record and duties of the clerk of such court relating to the time of entering judgments.

Be it enacted by the General Assembly of the State of Iowa:

1 **SECTION 1. Setting aside defaults.** That section six hundred
 2 ninety-four-c-seventeen (694-c-17), supplemental supplement to the
 3 code, 1915, be and the same is hereby amended by adding thereto the
 4 following:
 5 “Default or judgment thereon may be set aside in the same manner
 6 and upon the same terms as is now or may hereafter be provided for
 7 setting aside defaults in the district court. Application therefor
 8 must be made within ten days from the day on which default or judg-
 9 ment was entered, providing, however, that within one year from
 10 the rendition of final judgment proceedings may be brought to re-
 11 verse, vacate or modify the same, as provided in chapter 1, title XX,
 12 of the code, for vacating or modifying final judgment or order of the
 13 district court.”

1 **SEC. 2. Commencement of actions.** That section six hundred
 2 ninety-four-c-twenty-two (694-c-22), supplemental supplement to the
 3 code, 1915, be and the same is hereby amended by striking out the
 4 period after the word “thereof” in the ninth line, and inserting in
 5 lieu thereof a comma, and by adding thereto the following words: “if
 6 served upon the defendant within the county where the municipal
 7 court is situated, and not less than ten (10) days nor more than
 8 twenty (20) days after the service thereof if served upon the defend-
 9 ant without the county where the municipal court is situated”; also
 10 by inserting the words, “In class ‘A’ cases”, before the word “it” at
 11 the beginning of the sentence in the ninth line of said section; and by

12 adding thereto the following: "If service is made within the state,
13 the truth of the return is proven by the signature of the bailiff, sher-
14 iff or his deputy, and the court shall take judicial notice thereof.";
15 so that when amended said section will read as follows:

16 "Civil actions in the municipal court are commenced by voluntary
17 appearance or by written notice. If by notice, the same shall be
18 addressed to the defendant or defendants by name, but if his name is
19 unknown, a description of him shall be sufficient. It must be sub-
20 scribed by the plaintiff or his attorney. The notice must state the
21 amount for which the plaintiff will take judgment if the defendant
22 does not appear and answer at the time and place stated in the original
23 notice, which shall be not less than five nor more than fifteen days
24 after the service thereof, if served upon the defendant within the
25 county where the municipal court is situated, and not less than ten
26 (10) days nor more than twenty (20) days after the service thereof
27 if served upon the defendant without the county where the municipal
28 court is situated. In class "A" cases it must further state the date
29 on or before which the petition will be filed with the clerk of the
30 municipal court, and unless the petition is filed with the clerk of the
31 municipal court on or before such date, which shall be at least five
32 days before return day, the defendant or defendants shall not be held
33 to appear and answer. If service is made within the state, the truth
34 of the return is proven by the signature of the bailiff, sheriff, or his
35 deputy, and the court shall take judicial notice thereof."

1 SEC. 3. **Service by publication.** That section six hundred ninety-
2 four-c-twenty-two (694-c-22), supplemental supplement to the code,
3 1915, be and the same is hereby amended by adding thereto the
4 following:

5 (a) Service of original notice may be made by publication when
6 an affidavit is filed that personal service cannot be made on the de-
7 fendant within this state in either of the following cases:

8 1. In actions brought against a non-resident of this state or a
9 foreign corporation, having in the state property or debts owing to
10 such defendant, sought to be taken by any of the provisional remedies
11 or to be appropriated in any way;

12 2. In actions which relate to or the subject of which is personal
13 property in this state, when any defendant has or claims a lien or
14 interest, actual or contingent, therein, or the relief demanded con-
15 sists wholly or partially in excluding him from any interests therein,
16 and such defendant is a non-resident of the state or a foreign
17 corporation;

18 3. In all actions where the defendant, being a resident of this
19 state, has departed therefrom, or from the county of his residence,
20 with intent to delay or defraud his creditors, or to avoid the service
21 of a notice, or keeps himself concealed therein with like intent.

22 (b) The publication must be of the original notice required for
23 the commencement of actions, once each week for three consecutive
24 weeks, before or after the filing of the petition, in some newspaper
25 published in the city where the municipal court is situated, which
26 paper shall be determined by the plaintiff or his attorney.

27 (c) When the foregoing provisions have been complied with, the
28 defendant so notified shall be required to appear on the date desig-

29 nated in the said original notice, which shall be not less than five
30 nor more than fifteen days after the date of the last publication.

31 (d) Actual personal service of the notice within or without the
32 state supersedes the necessity of publication.

1 **SEC. 4. Supersedeas bonds.** That section six hundred ninety-
2 four-c-forty-five (694-c-45), supplemental supplement to the code,
3 1915, be and the same is hereby amended by adding thereto the
4 following:

5 "and judgments so appealed from may be superseded by bonds to
6 be approved by the clerk of said court and filed in his office as a part
7 of the record of the cause from which the appeal is taken, and all
8 laws applicable thereto in the case of such bonds filed in the district
9 court of the state of Iowa shall be applicable to such procedure in
10 the municipal court. Judgments of said court not appealed from may
11 also be stayed in said court in the same cases, for the same time, and
12 upon the same conditions, bonds therefor to be approved by and filed
13 in the office of the clerk of said municipal court."

1 **SEC. 5. Duty of clerk on filing of supersedeas bond.** That sec-
2 tion six hundred ninety-four-c-forty-six (694-c-46), supplemental
3 supplement to the code, 1915, be and the same is hereby amended by
4 adding thereto the following:

5 "In the event that an appeal shall have been taken from any judg-
6 ment of said municipal court, so transcribed to the district court,
7 and thereafter superseded as provided in section 1 hereof, it shall
8 be the duty of the clerk of the municipal court to immediately trans-
9 mit to the clerk of the district court a certificate of such fact; where-
10 upon the clerk of the district court shall file such certificate and make
11 the appropriate notation thereof on the transcript docket, in connec-
12 tion with such judgment, which shall have the effect of superseding
13 the enforcement of said judgment in the district court, and shall
14 make it the duty of the clerk of said district court to recall any execu-
15 tion that may have been issued, in all respects as if the appeal had
16 been taken from a judgment in that court, and when any appeal from
17 a judgment in the municipal court which has been so transcribed to
18 the district court shall have been finally disposed of in the appellate
19 court, it shall be the duty of the clerk of the municipal court, on
20 receipt of the mandate from the appellate court, to immediately cer-
21 tify and transmit a copy thereof to the clerk of the district court,
22 and all proceedings in such causes thereafter, both in the municipal
23 and district courts, shall be in harmony with such mandate."

1 **SEC. 6. Attachment bonds.** That section three thousand eight
2 hundred eighty-five (3885) of the code, be and the same is hereby
3 amended by inserting after the word "case" in the fourth line of
4 said section a comma, and by inserting after said comma the words,
5 "except in a class 'B' case in municipal court"; and by inserting be-
6 tween the word "court" and the comma immediately following in the
7 sixth line of said section the words, "or a class 'B' case in municipal
8 court"; so that when amended said section shall read as follows:

9 "In all cases before it can be issued, the plaintiff must file with the
10 clerk a bond for the use of the defendant, with sureties to be ap-
11 proved by such clerk, in a penalty at least double the value of the
12 property sought to be attached, and in no case, except in a class 'B'

13 case in municipal court, less than two hundred and fifty (250) dol-
 14 lars in a court of record, or less than fifty (50) dollars if in a justice
 15 court or a class 'B' case in municipal court, conditioned that the
 16 plaintiff will pay all damages which the defendant may sustain by
 17 reason of the wrongful suing out of the attachment."

1 SEC. 7. Clerk to make record. That section six hundred ninety-
 2 four c- eight (694-c8), supplemental supplement to the code, 1915, be
 3 and the same is hereby amended by adding thereto the following:

4 "He shall, from time to time, make a record of all proceedings of
 5 the court, which, when correct, shall be signed by the judge or judges
 6 of said court. Delays in signing the record shall not prevent execu-
 7 tions from issuing and all other proceedings may be had in the same
 8 manner as though the record had been signed."

1 SEC. 8. That chapter three (3) of title five (V) of the supple-
 2 mental supplement to the code, 1915, be amended by adding thereto
 3 the following:

4 SEC. 694-c52. Sales on execution—notice. When property is sold
 5 on execution, notice shall be given by posting up in at least three
 6 public places of the township, one of which shall be at the place
 7 where the municipal court was held, in addition to which where per-
 8 sonal property to the amount of two hundred dollars or upwards is
 9 to be sold, there shall be two weekly publications of such notice in
 10 some newspaper printed in the city where the municipal court was
 11 held, to be selected by the party causing the notice to be given, and
 12 the compensation for such publication shall be the same as is provided
 13 by law for legal notices.

1 SEC. 9. Entry of judgment. That chapter three (3) of title five
 2 (V) of the supplemental supplement to the code, 1915, be amended
 3 by adding thereto the following:

4 SEC. 694-c53. In all cases judgments shall be rendered and en-
 5 tered upon the record or calendar of said court within ten days after
 6 the cause is submitted for final action, unless for good cause the court
 7 extends the time.

1 SEC. 10. That the law as it appears in section six hundred ninety-
 2 four-c forty-three (694-c43) of the supplemental supplement to the
 3 code, 1915, be and the same is hereby repealed and the following
 4 enacted in lieu thereof:

5 SEC. 694-c43. Peremptory challenges—challenges for cause.
 6 Challenges for cause shall be the same as in the district court. Where
 7 the jury consists of twelve jurors, the same number of challenges
 8 shall be allowed to either party as is or may be allowed in the district
 9 court. In all cases where the jury shall consist of six jurors, the
 10 clerk shall select eight (8) jurors by lot from the regular panel or
 11 additions thereto and prepare a list of the names of such jurors called.
 12 Each party shall have the right to peremptorily challenge two jurors
 13 and strike off one juror. Peremptory challenges shall be exercised
 14 or waived the same as is or may be provided in the district court and
 15 such challenge shall be indicated by the clerk, upon the list opposite
 16 the name of the juror challenged and if waived by indicating the
 17 number of waiver elsewhere on the list. After peremptory challenges
 18 have been exhausted or waived the parties shall alternately in the

19 same manner strike one juror from the list. The clerk shall read the
 20 names of the six (6) jurors remaining, and the six (6) so remaining
 21 shall constitute the jury selected.

Approved March 28, A. D. 1917.

CHAPTER 76.

OF TOWNSHIPS AND TOWNSHIP OFFICERS.

H. F. 10.

AN ACT to amend the law as it appears in section five hundred ninety (590), five hundred ninety-one (591) and five hundred ninety-two (592), supplement to the code, 1913, relating to the compensation of township trustees, township clerks and township assessors.

Be it enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Compensation of trustees. That the law as it ap-
 2 pears in section five hundred ninety (590), supplement to the code,
 3 1913, be and the same is hereby amended by striking the fourth, fifth,
 4 sixth and seventh lines from said section and by inserting in lieu
 5 thereof the following:
 6 "business, to be paid out of the county treasury, three dollars each;
 7 provided, however, that in townships embraced entirely within the
 8 limits of special charter cities, the compensation of township trustees
 9 shall be four dollars per day."

1 SEC. 2. Compensation of clerk. That the law as it appears in
 2 section five hundred ninety-one (591), supplement to the code, 1913,
 3 be and the same is hereby amended by striking the fourth, fifth,
 4 sixth and seventh lines from said section and by inserting in lieu
 5 thereof the following:
 6 "from the county treasury, three dollars; provided, however, that
 7 in townships embraced entirely within the limits of special charter
 8 cities, the compensation of township clerks shall be four dollars
 9 per day."

1 SEC. 3. Compensation of assessor. That the law as it appears
 2 in section five hundred ninety-two (592), supplement to the code,
 3 1913, be and the same is hereby amended by striking from the fifth
 4 line of said section the word "two" and by inserting in lieu thereof
 5 the word "three".

Approved March 28, A. D. 1917.